## KITTITAS COUNTY WATER CONSERVANCY BOARD Application for Change/Transfer Record of Decision

For Ecology Use Only
Received ECOLOGIA PROCEIVED Date Stamp
RevieweE6\(\text{O}\)  Date Reviewed:

Applicant: Theiline P. Scheumann
Family Limited Partnership

Application Number: KITT-16-03

This record of decision was made at an open public meeting of the Kittitas County Water Conservancy Board held on January 20, 2004.

	Conservancy Board held on January 20, 2004.		
K	Approval:		
	The Kittitas County Water Conservancy Board hereby <b>grants</b> conditioned tright transfer described and conditioned within the report of examination and submits this record of decision and report of examination to the final review or consideration.	ition on Jan	uary 20, 2004
	Denial:		
	The Kittitas County Water Conservancy Board hereby <b>denies</b> condition right transfer as described within the report of examination on Januar record of decision to the Department of Ecology for final review or of the Conservance of the Conser	ry 20, 2004	, and submits this
	Signed:		
	Mary Burke, Chair Kittitas County Water Conservancy Board	Approves Denies Recuse	
	Pat Deneen, Member Kittitas County Water Conservancy Board	Approves Denies Recuse	
	Date: 2-5-04  Tom Chini, Member  Kittitas County Water Conservancy Board	Approves Denies Recuse	
	Mailed to the Department of Ecology Central Regional Office of and other interested parties on	Ecology, v	ia certified mail,

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### KITTITAS COUNTY WATER CONSERVANCY BOARD

Application for Change/Transfer





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#### Continued

Scheumann has not abandoned or relinquished any portion of its surface water rights for irrigation purposes, as outlined above. The record demonstrates that Scheumann continuously used its water to irrigate its land in accordance with his right, and the *Acquavella* determination. This use has continued up to its application for a change in point of diversion, thereby demonstrating its intent to not abandon the right and to use the historical amount of water allotted to irrigate its property.

5. Geologic, Hydrogeologic and Scientific Investigations

The Board did not consider any new geologic, hydrogeologic or other scientific investigations to be necessary for evaluation of this application.

#### **CONCLUSIONS**

- Scheumann's application and supporting materials, including a copy of the Ecology water right file, are in the proper form and contain all information required by the Board for making a conditional decision.
- Notification of Scheumann's application and the Board's consideration thereof was properly published as required by law.
   More than thirty days passed between the last date of publication (October 20, 2003) and the Board's hearing and decision on the application, January 20,1 2004.
- 3. Proper notification of Scheumann's application was given to all necessary agencies.
- SEPA review was not necessary.
- 5. No protests, objections, claims of impairment or injury or requests to intervene were filed.
- The water right proposed for a change in diversion point is a valid right for the full instantaneous and annual quantities stated in the Report of the Referee.
- The water right proposed for a change in diversion point is subject to the jurisdiction of the Superior Court of Yakima County conducting the Acquavella surface water adjudication.
- 8. The change of point of diversion: a) will not enlarge Scheumann's existing water right; b) will not impair existing water rights, pending applications, or instream flows; c) is from the same source; and d) is not detrimental to the public interest.
- The existing and proposed points of diversion divert water from the same body of public surface water and will not expand
  the current water rights as stated by the Report of the Referee.
- The change in point of diversion is in accordance with applicable laws, rules, policies, and guidelines.
- A Conditional Final Order, number 77-2-01484-5, for Subbasin 8 (Thorp), confirming water rights described in this document, which was signed by Sidney P. Ottem, Court Commissioner, on October 9, 2003.

#### RECOMMENDATIONS

Based on the information and findings described above, the Board conditionally approves Scheumann's request to permanently change the point of diversion for Surface Water Court Claim No. 01335, from its current location at 1300 feet north and 400 feet west of the southeast corner of Section 13, being within the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 13, T. 18 N., R. 17 E.W.M., to a new location at a point 800 feet downstream from where Fogey Creek is intercepted by the Packwood Canal, being within the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 13, T. 18 N., R. 17 E.W.M. All other attributes of the surface water right will remain the same.

#### PROVISIONS AND CONDITIONS

1. Conditions and Limitations

The following conditions shall apply:

- 1) The total diversion between this right and the right to Fogey Creek with a June 30, 1903, date of priority delivered through the same common diversion and pipeline shall not exceed 4.71 cfs.
- Mitigation

There are no mitigation requirements.

3. Schedule for Development and Completion

Upon approval of the change in point of diversion, Scheumann will begin construction of the new diversion point before July 1, 2004. Full application of the authorized quantities to beneficial use from the new point of diversion shall occur by July 1, 2006.

DATED this 4 day of February 2004

KITTITAS COUNTY WATER CONSERVANCY BOARD

Many & Bealle

Continued

Signed at Ellensburg, Washington
This 4 day of Espreagy 2004

Musey & Bould Chair Kittitas County Water Conservancy Board

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

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### WATER CONSERVANCY BOARD Application for Change/Transfer Record of Decision

For Ecology Use Only
Received: Received Received
Date Stamp 7 2004
C. C
Reviewed by:
Date Reviewed:

	Applicant: Theiline P. Scheumann  Family Limited Partnership  Application Number: KTTT-17-03
	This record of decision was made at an open public meeting of the Kittitas County Water Conservancy Board held on January 20, 2004.
نه	Approval:
	The Kittitas County Water Conservancy Board hereby <b>grants</b> conditional approval for the water right transfer described and conditioned within the report of examination on January 20, 2004 and submits this record of decision and report of examination to the Department of Ecology for final review or consideration.
	Denial:
	The Kittitas County Water Conservancy Board hereby <b>denies</b> conditional approval for the water right transfer as described within the report of examination on January 20, 2004 and submits this record of decision to the Department of Ecology for final review or consideration.
	Signed:

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and other interested parties on

Mary Burke, Chair

Record of Decision Updated: 06/05/01

Approves

Denies



# KITTITAS COUNTY WATER CONSERVANCY BOARD Application for Change/Transfer Report of Examination TO APPROPRIATE PUBLIC WATERS OF THE STATE OF WASHINGTON

SERT. OF ECOLOGIA
FEB 1 7 2004
REGION OF

X		rface Water	•			Ground							
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						19		1	.8 N		17 E		

#### DESCRIPTION OF PROPOSED WORKS

Diversion structure directly taking waters from Fogey Creek into an irrigation system for irrigation of acreage.

DEVELOPMENT SCHEDULE								
BEGIN PROJECT BY THIS DATE:	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE:							
July 1, 2004	July 1, 2005	July 1, 2006						

#### REPORT

See WAC 173-153-130 - The following sections may be expanded onto additional pages.

#### **BACKGROUND**

The water right proposed for transfer is a surface water right, more completely described as follows:

Surface Water Claim No.:

01335

**Priority Date:** 

June 30, 1903

Source:

Fogey Creek

Purpose of Use:

Irrigation of 60 acres

Period of Use:

Place of Use:

March 1 through October 31

Maximum Quantity:

4.71 cubic foot per second

Maximum Acre Feet per year:

765 acre-feet per year

Point of Diversion:

1300 feet north and 400 feet west of the SE corner of Section 13, being within the

SE 1/4 SE 1/4 of Section 13, T. 18 N., R. 17 E.W.M.

That portion of Government Lot 1 lying east of the Packwood Canal, and that portion of the E ½ NW ¼ lying west of the Yakima River, both in section 19. T. 18

N. R. 17 E.W.M.

Limitation on Use:

The total diversion between this right and the right to Fogey Creek with a January 30, 1889, date of priority delivered through the common diversion and pipeline shall

not exceed 4.71 cfs.

The surface water right described above has been in continuous use for the past five years, with no abandonment or relinquishment. It has been adjudicated in the *Acquavella* proceedings as such. A copy of the Report of Referee with regards to this water right claim is attached hereto as Exhibit "A".

Upon review of the complete record, including the Ecology water right file and information submitted by the Theiline P. Scheumann Family Limited Partnership, the successor to claimant Theiline P. Scheumann, the Board tentatively determines that the above-described surface water right point of diversion is valid for transfer to a new diversion point. The annual quantity used will not change, the land being irrigated remains the same, and there is no increase in water rights as a result of the change in point of diversion.

#### COMMENTS AND PROTESTS

Public notice of the application was published in the *Ellensburg Daily Record* on October 13, 2003, and October 20, 2003. The affidavit of publication is part of the administrative record and attached hereto as Exhibit "B". The Board notified relevant agencies of the application. The agency notification checklist is part of the administrative record.

The Board received no comments on the Scheumann application. The Board received no protests, objections, claims of impairment or injury, or requests to intervene.

#### INVESTIGATION

1. Effect of proposed transfer on other water rights, pending applications, and instream flows.

The proposed change is to change the point of diversion from Fogey Creek, not to enlarge the water right or change the place of use. The new point of diversion from Fogey Creek will serve only the lands to which the Scheumann water right pertains. Therefore, there is no enlargement of an existing water right and the water will come from the same point of origin as it had under the original point of diversion

The Board's review of all available information also indicates that the proposed change of point of diversion will not impair other water rights, pending applications, or instream flows, in part because it is not an enlargement of a current water right, and is not from a different water source. Based on the Board's review of information regarding other surface water rights and applications in the vicinity of the proposed point of diversion, the Board does not foresee any adverse impact on any existing surface water rights or applications resulting from changing the point of diversion for the above-described water right. Information reviewed includes information from Ecology's Water Rights Application Tracking System (WRATS) regarding all existing surface water rights and applications within the approximate area of the proposed point of diversion.

2. Site Visit

A site visit was conducted on October 17, 2003. Pat Deneen of the Kittitas County Water Conservancy Board conducted the site visit with the applicant. The Board held a regular meeting on October 21, 2003, where Mr. Deneen reported on and confirmed the site visit to the remaining members of the Board.

Public Interest

The requested change in point of diversion will not be detrimental to the public interest. The Scheumann Limited Partnership will not take more water from Fogey Creek than it is currently allotted under the existing decision in Acquavella.

4. Abandonment and Relinquishment

Scheumann has not abandoned or relinquished any portion of its surface water rights for irrigation purposes, as outlined above. The record demonstrates that Scheumann continuously used its water to irrigate its land in accordance with his right, and the *Acquavella* determination. This use has continued up to its application for a change in point of diversion, thereby demonstrating its intent to not abandon the right and to use the historical amount of water allotted to irrigate its property.

5. Geologic, Hydrogeologic and Scientific Investigations

The Board did not consider any new geologic, hydrogeologic or other scientific investigations to be necessary for evaluation of this application.

#### **CONCLUSIONS**

- Scheumann's application and supporting materials, including a copy of the Ecology water right file, are in the proper form and contain all information required by the Board for making a conditional decision.
- Notification of Scheumann's application and the Board's consideration thereof was properly published as required by law.
   More than thirty days passed between the last date of publication (October 20, 2003) and the Board's hearing and decision on the application, on January 20, 2004.
- 3. Proper notification of Scheumann's application was given to all necessary agencies.
- SEPA review was not necessary.
- 5. No protests, objections, claims of impairment or injury or requests to intervene were filed.
- 6. The water right proposed for a change in diversion point is a valid right for the full instantaneous and annual quantities stated in the Report of the Referee.
- The water right proposed for a change in diversion point is subject to the jurisdiction of the Superior Court of Yakima County conducting the Acquavella surface water adjudication.
- 8. The change of point of diversion: a) will not enlarge Scheumann's existing water right; b) will not impair existing water rights, pending applications, or instream flows; c) is from the same source; and d) is not detrimental to the public interest.
- 9. The existing and proposed points of diversion divert water from the same body of public surface water and will not expand the current water rights as stated by the Report of the Referee.
- 10. The change in point of diversion is in accordance with applicable laws, rules, policies, and guidelines.
- A Conditional Final Order, numbered 77-2-01484-5 for Subbasin 8 (Thorp), confirming water rights described in this
  document, which was signed by Sidney P. Ottem, Court Commissioner, on October 9, 2003.

#### RECOMMENDATIONS

Based on the information and findings described above, the Board conditionally approves Scheumann's request to permanently change the point of diversion for Surface Water Court Claim No. 01335, from its current location at 1300 feet north and 400 feet west of the southeast corner of Section 13, being within the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 13, T. 18 N., R. 17 E.W.M., to a new location at a point 800 feet downstream from where Fogey Creek is intercepted by the Packwood Canal, being within the SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  of Section 13, T. 18 N., R. 17 E.W.M. All other attributes of the surface water right will remain the same.

#### **PROVISIONS AND CONDITIONS**

I. Conditions and Limitations

The following conditions shall apply:

- 1) The total diversion between this right and the right to Fogey Creek with a January 30, 1889, date of priority delivered through the same common diversion and pipeline shall not exceed 4.71 cfs.
- 2. Mitigation

There are no mitigation requirements.

3. Schedule for Development and Completion

Upon approval of the change in point of diversion, Scheumann will begin construction of the new diversion point before July 1, 2004. Full application of the authorized quantities to beneficial use from the new point of diversion shall occur by July 1, 2006.

DATED this 4 day of February 2004

KITTITAS COUNTY WATER CONSERVANCY BOARD

Henry & Braker

Continued

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BY:	

Signed at Ellensburg, Washington
This \_\_\_\_\_ day of February 2004

Meaning Lander, Chair Kittitas County Water Conservancy Board

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

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### For attachments not included or for more information please contact:

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